IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1208 OF 2007

Kamlakant S.Mishra .. Petitioner

Versus

The Secretary,
School Education Department,
State of Maharashtra & Ors. .. Respondents.

Mr.N.M.Shaikh for petitioner.
Mr.Surel S.Shah for respondent Nos.4,6 and 7.
Mr.Shekhar Ingale, A.G.P. for respondent Nos.1 to 3.

ALONG WITH

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE WRIT JURISDICTION

WRIT PETITION NO.5015 OF 2007

The Secretary,
Dayanand Vedic Vidyalaya
(Hindi High School)
Sanchalak Samiti & Anr. .. Petitioners.

Versus

Kamlakant S.Mishra & Ors. .. Respondents.

Mr.Surel Shah for petitioners.

Mr.N.M.Shaikh for respondent No.1.

CORAM : D.B.BHOSALE, J.

DATE : 21st September, 2007.

P.C.:

1. Heard learned counsel for the parties.

2. These writ petitions are directed against the common judgement and order dated 20th January, 2007, rendered by the Presiding Officer, School Tribunal, Mumbai in Appeal No.MUM/3/2005 filed by one Kamlakant S. Mishra, the petitioner in Writ Petition No.1208 of 2007 and respondent No.1 in Writ Petition No.5015 of 2007, by which the Appeal has been allowed. Operative part of the order dated 20th January, 2007 reads thus :-

> "1. The Appeal is partly allowed.
>
> 2. The termination order dated 16-11-2004 is hereby set aside and the appellant be treated as retired w.e.f.16-11-2004.
>
> 3. Respondent No.1 and / are directed to prepare pension papers for pensionery benefits and other service dues of the appellant and submit the

same to the concerned authorities.

4. No order as to the cost.

5. Respondent shall comply with this order within 40 days from the date of order."

3. Learned counsel for the parties have fairly stated that I need not record reasons for disposing of these writ petitions and they have agreed for the following order :-

4. The operative part of the impugned judgement dated 20th January, 2007 stands modified as under :-

a) Termination order dated 16th November, 2004 is set aside and Kamlakant S. Mishra is deemed to have naturally superannuated on 31st January, 2005.

b) The Secretary of the Trust Dayanand Vedic Vidyalaya, the petitioner in Writ Petition No.5015 of 2007, is directed to prepare papers for pensionery benefits and other service dues of Kamlakant S. Mishra and submit the same to the concerned authorities for its consideration, treating Kamlakant S. Mishra as superannuated with effect from 31st January, 2005.

c) The Education Inspector, Greater Bombay (North Zone) shall take appropriate steps and decision, on receipt of the pension papers from the institution - Dayanand Vedic Vidyalaya, as expeditiously as possible and preferably within a period of 12 weeks from the date of its receipt.

5. The impugned order has been modified in aforesaid terms in view of the peculiar facts and circumstances of this case and shall not be treated as precedent.

6. It is needless to express that the institution shall forward the pension papers to the Education Inspector, Greater Bombay (North Zone) within 8 weeks from the date of receipt of this order.

6. With these directions, both writ petitions stands disposed of.

(D.B.Bhosale, J.)